

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

SUSAN CALTON, individually and as Executor on
behalf of the ESTATES OF JOSEPH R. PYCH and
BARBARA A. PYCH,

Plaintiff,

v.

SZR WAYNE ASSISTED LIVING, LLC d/b/a
SUNRISE OF WAYNE, SUNRISE SENIOR
LIVING, LLC, SENIOR LIVING MANAGEMENT,
INC., ABC COMPANIES 1-10 said entities being
fictitious and unknown, and JOHN DOES 1-10 said
names being fictitious and unknown

Defendants.

Civil Action: 2:22-cv-02486

NOTICE OF REMOVAL

**TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT
OF NEW JERSEY:**

Pursuant to 28 U.S.C. § 1441, defendant SZR Wayne Assisted Living, LLC, hereby removes this action from the Superior Court of New Jersey, County of Passaic, Law Division to the United States District Court for the District of New Jersey. The grounds for removal are as follows:

1. Plaintiff Susan Calton, individually and as Executor on behalf of the Estates of Joseph R. Pych and Barbara M. Pych, commenced an action in the Superior Court of the State of New Jersey, County of Passaic, Law Division. That lawsuit is identified in that court as *Susan Calton, individually and as Executor on behalf of the Estates of Joseph R. Pych and Barbara M. Pych v. SZR Wayne Assisted Living, LLC, d/b/a Sunrise of Wayne, Sunrise*

Senior Living, LLC, Sunrise Senior Living Management, Inc., ABC Companies 1-10, said entities being fictitious and unknown, and John Does 1-10, said names being fictitious and unknown, Docket No.: PAS-L-000688-22 (the “State Court Action”).

2. The State Court Action may be removed, and is removed, to this Court under 28 U.S.C. § 1441.
3. This Court has original jurisdiction on the basis of diversity under 28 U.S.C. § 1332. Diversity jurisdiction pursuant to 28 U.S.C. § 1332 is based upon the State Court Action involving a matter in controversy exceeding the “sum or value of \$75,000, exclusive of interest and costs,” and being between “citizens of different States.”
4. In accordance with 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders that were served upon SZR Wayne Assisted Living, LLC in the State Court Action are attached as **Exhibit 1**.
5. **Diversity of Parties.** With regard to citizenship of the parties, the following is alleged:
 - a.) Plaintiff’s Complaint alleges the following: Plaintiff Susan Calton was appointed as Executor of the Estates of Joseph R. Pych and Barbara M. Pych by way of testamentary certificates issued by the State of New Jersey, Passaic County Surrogate’s Court. Susan Calton is a resident of New Jersey and a citizen of the State of New Jersey. The decedents of plaintiff, Joseph R. Pych and Barbara M. Pych, were residents of New Jersey at the time of their death and were citizens of New Jersey at the time of their death. Neither Joseph R. Pych nor Barbara M. Pych were citizens of the state of Virginia, Kentucky, or Delaware at the time of their death.

- b.) SZR Wayne Assisted Living, LLC is a limited liability company with final member being Ventas, Inc., a Delaware Corporation with its principal place of business in Louisville, Kentucky. Therefore, SZR Wayne Assisted Living, LLC is a citizen of Delaware and Kentucky.
- c.) Upon information and belief, Sunrise Senior Living Management, Inc., is a Virginia Corporation with its principal place of business in McLean, Virginia. Therefore, Sunrise Senior Living Management, Inc. is a citizen of Virginia. *See* 28 U.S.C. § 1332(c)(1) (for diversity purposes, “[a] corporation shall be deemed a citizen of any State by which it has been incorporated and of the State where it has its principal place of business”); *see also Hertz Corp. v. Friend*, 559 U.S. 77, 91 (2010) (for purposes of removal, the “principal place of business” is determined by the “nerve center” test whereby an entity is deemed to be a citizen of the State where its officers direct, control and coordinate activities).
- d.) Upon information and belief, Sunrise Senior Living, LLC is an improper party to this action as it did not own, operate or manage the Sunrise of Wayne community and did not employ any staff that worked there. This Court lacks personal jurisdiction over Sunrise Senior Living, LLC and this defense is asserted and will be raised in a motion to dismiss. Nevertheless, for the purposes of assessing citizenship of the parties, Sunrise Senior Living, LLC is a Delaware limited liability company with its principal place of business in Virginia. The sole member of Sunrise Senior Living, LLC is Red Fox Holding Corporation, a Delaware corporation with its principal place of business in Virginia. Accordingly, Sunrise Senior Living, LLC is a citizen of both Delaware and Virginia.


e.) As the above demonstrates, the State Court Action is between citizens of different states and there is complete diversity for purposes of 28 U.S.C. §§ 1332 and 1441.

6. **Amount in Controversy.** The preponderance of the evidence pertaining to the kind and extent of the alleged injuries and damages demonstrates that the amount in controversy from Plaintiffs' point of view and as stated by Plaintiff in Plaintiff's Complaint exceeds \$75,000, exclusive of interests and costs. The jurisdictional amount in a case, along with other diversity requirements, is determined as of the date that suit is filed. *See Wolde-Meskel v. Vocational Instruction Project Cmty. Services, Inc.*, 166 F.3d 59, 62 (2d Cir. 1999). In accordance with 28 U.S.C. § 1446, "if the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable." The amount in controversy is determined using the allegations in the complaint if they include such an amount, and if they do not, courts may look to the petition for removal. *See Davenport v. Procter & Gamble Mfg. Co.*, 241 F.2d 511, 514 (2d Cir. 1957). While SZR Wayne Assisted Living, LLC denies any and all liability and damages, Plaintiffs' Complaint seeks compensation for serious personal injuries, physical pain and mental anguish, loss of dignity and ultimately the loss of two lives. Defendants reserve the right to argue and prove that no damages were sustained or that, if any damages were sustained, they are less. Nevertheless, the monetary threshold for diversity jurisdiction has been established in this case.
7. **Service of Process.** Service of process (including the Complaint) occurred as follows: SZR Wayne Assisted Living, LLC was served on March 30, 2022.

8. **Consent.** Sunrise Senior Living Management, Inc. and Sunrise Senior Living, LLC have not yet been served with the summons and complaint. However, both consent to the removal of this matter.
9. **Timeliness.** SZR Wayne Assisted Living, LLC files this notice within 30 days of its receipt, on March 30, 2022, of the Plaintiffs' Complaint. In accordance with 28 U.S.C. § 1446, a notice of removal can be "filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based." 28 U.S.C. § 1446. Therefore, the removal is timely.
10. This action may be removed to this Court pursuant to 28 U.S.C. § 1441.
11. A copy of this notice of removal will be filed with the clerk of the Superior Court of New Jersey, Passaic County, Law Division as required by 28 U.S.C. § 1441(d).

WHEREFORE, SZR Wayne Assisted Living, LLC requests that the State Court Action be removed to this Court, and that this Court issue such orders and process as are necessary to preserve its jurisdiction over this matter.

WHITE AND WILLIAMS LLP

BY: 
Rafael Vergara
Daria B. Janka
The Legal Center
One Riverfront Plaza
1307 Raymond Boulevard, Suite 230
Newark, NJ 07102-5425
Phone: 201.368.4416
*Attorneys for defendant SZR Wayne
Assisted Living, LLC*

Dated: April 28, 2022

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

SUSAN CALTON, individually and as Executor on
behalf of the ESTATES OF JOSEPH R. PYCH and
BARBARA A. PYCH,

Plaintiff,

v.

SZR WAYNE ASSISTED LIVING, LLC d/b/a
SUNRISE OF WAYNE, SUNRISE SENIOR
LIVING, LLC, SENIOR LIVING MANAGEMENT,
INC., ABC COMPANIES 1-10 said entities being
fictitious and unknown, and JOHN DOES 1-10 said
names being fictitious and unknown

Defendants.

Civil Action: 2:22-cv-02486

Notice to Plaintiff


To: Raj Gadhok, Esquire
Mandelbaum Barrett PC
3 Becker Farm Road, Suite 105
Roseland, New Jersey 07068
Phone: 973-736-4600
Email: RGadhok@mblawfirm.com
Attorneys for Plaintiffs

PLEASE TAKE NOTICE that defendant SZR Wayne Assisted Living, LLC has filed a Notice of Removal in the United States District Court for the District of New Jersey. The Notice of Removal was filed to remove an action pending in the Superior Court of New Jersey, Passaic County, entitled “*Susan Calton, individually and as Executor on behalf of the Estates of Joseph R. Pych and Barbara M. Pych v. SZR Wayne Assisted Living, LLC, d/b/a Sunrise of Wayne, Sunrise Senior Living, LLC, Sunrise Senior Living Management, Inc., ABC Companies 1-10, said entities*

being fictitious and unknown, and John Does 1-10, said names being fictitious and unknown,” The Action bears Docket No.: PAS-L-000688-22.

A copy of the Notice of Removal is attached to this notice.

WHITE AND WILLIAMS LLP

BY: 
Rafael Vergara
Daria B. Janka
The Legal Center
One Riverfront Plaza
1307 Raymond Boulevard, Suite 230
Newark, NJ 07102-5425
Phone: 201.368.4416
*Attorneys for defendant SZR Wayne
Assisted Living, LLC*

Dated: April 28, 2022

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

SUSAN CALTON, individually and as Executor on
behalf of the ESTATES OF JOSEPH R. PYCH and
BARBARA A. PYCH,

Plaintiff,

v.

SZR WAYNE ASSISTED LIVING, LLC d/b/a
SUNRISE OF WAYNE, SUNRISE SENIOR
LIVING, LLC, SENIOR LIVING MANAGEMENT,
INC., ABC COMPANIES 1-10 said entities being
fictitious and unknown, and JOHN DOES 1-10 said
names being fictitious and unknown

Defendants.

CERTIFICATE OF SERVICE


1. I, Rafael Vergara, am a Partner at White and Williams LLP, attorneys for defendants in the above-captioned matter.
2. I make this declaration based upon my personal knowledge of the facts set forth herein.
3. On **April 28, 2022**, I caused (1) Notice Of Removal, and (2) Notice To Plaintiff, to be sent by **mail and electronic mailing** to the following person at the below address:

Raj Gadhok, Esquire
Mandelbaum Barrett PC
3 Becker Farm Road, Suite 105
Roseland, New Jersey 07068
Phone: 973-736-4600
Email: RGadhok@mblawfirm.com
Attorneys for Plaintiffs

4. I declare under penalty of perjury that the foregoing is true and correct.

WHITE AND WILLIAMS LLP

BY:



Rafael Vergara

Daria B. Janka

The Legal Center

One Riverfront Plaza

1307 Raymond Boulevard, Suite 230

Newark, NJ 07102-5425

Phone: 201.368.4416

Attorneys for defendant SZR Wayne

Assisted Living, LLC

Dated: April 28, 2022

EXHIBIT 1

Raj Gadhok, Esq. (Attorney ID 034311999)

MANDELBAUM BARRETT PC

3 Becker Farm Road, Suite 105

Roseland, New Jersey 07068

Telephone: (973) 736-4600

Facsimile: (973) 325-7467

Email: RGadhok@mblawfirm.com

Attorneys for Plaintiff, Susan Calton,

Executor of the Estates of Joseph R. Pych and Barbara M. Pych

<p>SUSAN CALTON, Administrator of the Estate of JOSEPH and BARBARA PYCH,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>SZR WAYNE ASSISTED LIVING, LLC d/b/a SUNRISE OF WAYNE, SUNRISE SENIOR LIVING, LLC, SENIOR LIVING MANAGEMENT, INC., ABC COMPANIES 1-10 said entities being fictitious and unknown, and JOHN DOES 1-10 said names being fictitious and unknown,</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – PASSAIC COUNTY DOCKET NO. PAS-L-688-22</p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;">SUMMONS</p>
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FROM THE STATE OF NEW JERSEY TO THE DEFENDANTS NAMED ABOVE:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf). If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion

(with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.

/s/ Michelle M. Smith

MICHELLE M. SMITH
Clerk of the Superior Court

Dated: March 29, 2022

DEFENDANT TO BE SERVED:

SZR Wayne Assisted Living, LLC d/b/a Sunrise of Wayne
184 Berdan Avenue
Wayne, New Jersey 07470

PASSAIC SUPERIOR COURT
PASSAIC COUNTY COURTHOUSE
77 HAMILTON STREET
PATERSON NJ 07505

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (973) 653-2910
COURT HOURS 8:30 AM - 4:30 PM

DATE: MARCH 14, 2022
RE: CALTON SUSAN VS SZR WAYNE ASSISTED L IVING, LL
DOCKET: PAS L -000688 22

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 2.

DISCOVERY IS 300 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON BRUNO MONGIARDO

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 001
AT: (973) 653-2910 EXT 24234.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:5A-2.

ATTENTION:

ATT: RAJDEEP S. GADHOK
MANDELBAUM BARRETT PC
3 BECKER FARM RD
STE 105
ROSELAND NJ 07068

ECOURTS

Raj Gadhok, Esq. (Attorney ID 034311999)
MANDELBAUM BARRETT PC
 3 Becker Farm Road, Suite 105
 Roseland, New Jersey 07068
 Telephone: (973) 736-4600
 Facsimile: (973) 325-7467
 Email: RGadhok@mblawfirm.com
 Attorneys for Plaintiff, Susan Calton,
 Executor of the Estates of Joseph R. Pych and Barbara M. Pych

<p>SUSAN CALTON, individually and as Executor on behalf of the ESTATES OF JOSEPH R. PYCH and BARBARA M. PYCH,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>SZR WAYNE ASSISTED LIVING, LLC, d/b/a SUNRISE OF WAYNE, SUNRISE SENIOR LIVING, LLC, SUNRISE SENIOR LIVING MANAGEMENT, INC., ABC COMPANIES 1-10, said entities being fictitious and unknown, and JOHN DOES 1- 10, said names being fictitious and unknown,</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – PASSAIC COUNTY DOCKET NO.</p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;">COMPLAINT AND JURY DEMAND</p>
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Susan Calton, Executor of the Estates of Joseph R. Pych and Barbara M. Pych, residents of Passaic County, and the State of New Jersey, by way of Complaint against the above-captioned defendants, says:

THE PARTIES

1. Plaintiff, Susan Calton, was appointed as Executor of the Estates of Joseph R. Pych and Barbara M. Pych, deceased, in June 2020, by way of testamentary certificates issued by the State of New Jersey, Passaic County Surrogate's Court.

2. Defendant, SZR Wayne Assisted Living, LLC, d/b/a Sunrise of Wayne (“Owner”), is an Assisted Living Residence (the “Facility”) licensed by the New Jersey Department of Health, and located at 184 Berdan Avenue, Wayne, New Jersey.

3. Upon information and belief, Defendants Sunrise Senior Living, LLC, and Sunrise Senior Living Management, Inc., are related entities with principal place of business located at 7902 Westpark Drive, McLean, Virginia.

4. Defendants are engaged in the business of managing assisted living communities and providing skilled nursing care services throughout the United States, Canada, and the United Kingdom. Under information and belief, Defendants Sunrise Senior Living, LLC, and/or Sunrise Senior Living Management, Inc., were the managers of the Facility and acted as actual or apparent agent for and on behalf of Owner. Defendants collectively exercised ownership, controlling, managerial and/or supervisory roles in the operations of the Facility and care of its residents.

5. Defendants, John Does 1-10 and ABC Companies 1-10, are fictitious persons and business entities whose identities presently are unknown to Plaintiff, who are liable for Defendants’ negligent acts and omissions, and/or their own negligence, as alleged herein.

FIRST COUNT

6. Plaintiff incorporates by reference all facts and allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

7. Under information and belief, Plaintiff’s decedents, Joseph R. Pych and Barbara M. Pych, contracted COVID-19 while in the care of, and in the facility owned, operated and managed by Defendants. Both husband and wife died as a result of related complications shortly thereafter in April 2020.

8. Prior to moving into the Facility, on March 11, 2020, Plaintiff's decedents entered into Residency Agreements with Defendants, whereby decedents would become residents of the Facility starting on or about March 14, 2020.

9. In the Residency Agreements, Defendants held the Facility out to the public as a licensed assisted living facility that offered exceptional and specialized assisted living services.

10. Prior to becoming residents of the Facility, Plaintiff's decedents were in stable physical condition.

11. Upon information and belief, there were known cases of COVID-19 within the Facility prior to the decedents' agreement and occupancy. However, same was not disclosed to Plaintiff's decedents at the time of their agreement and/or prior to their occupancy.

12. Defendants owed Plaintiff's decedents a duty to disclose the presence and spread of COVID-19 within the Facility prior to the decedents' agreement and occupancy.

13. Shortly after taking residence in the Facility, Plaintiff's decedents became seriously ill and required hospitalization. Both passed away shortly thereafter due to related complications.

14. Decedents' deaths were the result of negligent acts or omissions of the Facility and its representatives. Defendants knew or should have known of the presence of COVID-19 cases among residents of the Facility, but failed to discover or disclose same to the residents and their families, including Plaintiff, and otherwise inadequately assessed, evaluated, and/or managed those affected residents.

13. Defendants acted with malice, moral turpitude, wantonness, willfulness, and reckless indifference to Plaintiff's decedents' rights by negligently and/or deliberately omitting or misrepresenting the presence of positive COVID-19 cases among the Facility's residents.

15. This action is brought within two years of the date of death of Plaintiff's decedents, pursuant to the provisions of N.J.S.A. 2A:31-1, the New Jersey Wrongful Death Act.

16. As a result of Defendants' negligence and gross negligence and the death of Plaintiff's decedents, both estates have incurred significant medical and funeral expenses.

17. As a result of Defendants' negligence and gross negligence and the death of Plaintiff's decedents, their children have suffered pecuniary losses and have been deprived of care, companionship, guidance, advice, counsel, and services of their mother and father.

WHEREFORE, Plaintiff Susan Calton, Executor of the Estates of Joseph R. Pych and Barbara M. Pych, demands judgment against Defendants, jointly and severally, for compensatory damages, incidental damages, consequential damages, punitive damages, pain and suffering, costs of suit, attorneys' fees, pre- and post-judgment interest, and such other and further relief as the Court deems fair and just.

SECOND COUNT

18. Plaintiff incorporates by reference all facts and allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

19. N.J.S.A. 30:13-8(a) provides that a person shall have a private cause of action for violation of a nursing home resident's rights as defined under the Nursing Home Responsibilities and Residents' Rights Act, N.J.S.A. 30:13-1 to -17 ("NHA").

20. The NHA required all Defendants to comply with all applicable State and federal statutes and rules and regulations.

21. During the entirety of Plaintiff's decedents' residency, Defendants were subject to the provision of N.J.S.A. 30:13-5 regarding the rights of residents in nursing homes and assisted living facilities.

22. Based on the foregoing allegations, Defendants jointly and severally violated Plaintiff's decedents' rights as a resident including, without limitation, those provided at N.J.S.A. 30:13-5(j).

23. Based on the foregoing allegations, Defendants jointly and severally violated the Federal OBRA regulations at 42 C.F.R. §483, *et seq.*, which establish Defendants' minimum standards of care owed to residents.

24. As a direct and proximate result of Defendants' aforementioned violations, Plaintiff's decedents suffered serious personal injuries, endured physical pain and mental anguish, suffered a loss of dignity, and ultimately died.

25. Defendants' violations of Plaintiff's decedents' resident rights were outrageous, willful, wanton and/or in complete disregard of their rights, and recklessly indifferent to their rights to shock the conscience of the community.

WHEREFORE, Plaintiff Susan Calton, Executor of the Estates of Joseph R. Pych and Barbara M. Pych, demands judgment against Defendants, jointly and severally, for compensatory damages, incidental damages, consequential damages, punitive damages, pain and suffering, costs of suit, attorneys' fees, pre- and post-judgment interest, and such other and further relief as the Court deems fair and just.

THIRD COUNT

26. Plaintiff incorporates by reference all facts and allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

27. At the time of the aforesaid accident, the defendants were acting as the agents, servants or employees of Defendants John Does 1-10 and/or ABC Corps. 1-10, fictitious persons or business entities whose identity presently are unknown to Plaintiff.

28. At the time of and prior to decedents becoming residents of the Facility, Defendants John Does 1-10 and/or ABC Corps. 1-10, fictitious persons or business entities whose identity presently are unknown to Plaintiff, acted negligently or with malice, moral turpitude, wantonness, willfulness, and reckless indifference to decedent's rights when they failed to discover, failed to disclose, or misrepresented the number of COVID-19 cases at the Facility.

29. Defendants John Does 1-10 and/or ABC Corps. 1-10, fictitious persons or business entities whose identity presently are unknown to Plaintiff, are legally responsible for the careless and negligent conduct of the other defendants, and for their own negligence, and are liable to Plaintiff for the injuries and damages which he sustained.

30. As a result of the aforesaid events, the estate incurred medical and funeral expenses as charges against the estate, and Plaintiff has suffered in the past, and will suffer in the future, mental pain and suffering.

WHEREFORE, Plaintiff Susan Calton, Executor of the Estates of Joseph R. Pych and Barbara M. Pych, demands judgment against Defendants, jointly and severally, for compensatory damages, incidental damages, consequential damages, punitive damages, pain and suffering, costs of suit, attorneys' fees, pre- and post-judgment interest, and such other and further relief as the Court deems fair and just.

MANDELBAUM BARRETT PC
Attorneys for Plaintiff,
Susan Calton, Executor of the Estates
of Joseph R. Pych and Barbara M. Pych

/s/ *Raj Gadhok*

RAJ GADHOK

Dated: March 14, 2022

DEMAND TO PRESERVE EVIDENCE

Defendants are hereby directed and demanded to preserve all physical and electronic information pertaining in any way to the incident(s) noted herein, Plaintiff's causes of action and/or prayers for relief, to any defenses of same, and pertaining to any party including, but not limited to, electronic data storage, closed circuit TV footage, digital images, computers images, cache memory, searchable data, emails, spreadsheets, employment and personnel files, memos, text messages and any and all social or work-related websites, entries on social networking sites (including, but not limited to, Facebook, Twitter, MySpace, etc.), and any other information and/or data and/or things and/or documents which may be relevant to any claim or defense in this litigation. **Failure to do so will result in separate claims for spoliation/destruction of evidence and/or for appropriate adverse inferences.**

MANDELBAUM BARRETT PC
Attorneys for Plaintiff,
Susan Calton, Executor of the Estates
of Joseph R. Pych and Barbara M. Pych

/s/ Raj Gadhok

RAJ GADHOK

Dated: March 14, 2022

JURY DEMAND

Plaintiff demands a jury trial on all issues so triable.

MANDELBAUM BARRETT PC
Attorneys for Plaintiff,
Susan Calton, Executor of the Estates
of Joseph R. Pych and Barbara M. Pych

/s/ Raj Gadhok

RAJ GADHOK

Dated: March 14, 2022

DESIGNATION OF TRIAL COUNSEL

Raj Gadhok, Esq., is designated as trial counsel pursuant to R. 4:25-4.

MANDELBAUM BARRETT PC
Attorneys for Plaintiff,
Susan Calton, Executor of the Estates
of Joseph R. Pych and Barbara M. Pych

/s/ Raj Gadhok

RAJ GADHOK

Dated: March 14, 2022

DEMAND FOR DOCUMENTS

Plaintiff demands copies of all documents in Defendants' possession, custody, or control (i) referred to in this Complaint, and (ii) produced by or to Defendants including but not limited to non-privileged statements of witnesses, memoranda or internal documents relating to this litigation.

MANDELBAUM BARRETT PC
Attorneys for Plaintiff,
Susan Calton, Executor of the Estates
of Joseph R. Pych and Barbara M. Pych

/s/ Raj Gadhok

RAJ GADHOK

Dated: March 14, 2022

DEMAND FOR CERTIFIED ANSWERS TO UNIFORM INTERROGATORIES

Plaintiff hereby demands that Defendants provide certified answers to Uniform Form C and/or C(3) Interrogatories within the time period provided by the Rules Governing the Court of the State of New Jersey.

MANDELBAUM BARRETT PC
Attorneys for Plaintiff,
Susan Calton, Executor of the Estates
of Joseph R. Pych and Barbara M. Pych

/s/ Raj Gadhok

RAJ GADHOK

Dated: March 14, 2022

DEMAND FOR DISCOVERY OF INSURANCE COVERAGE

Pursuant to R. 4:10-2(b), demand is made that Defendants disclose to Plaintiff's attorney whether or not there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or indemnify or reimburse for payments made to satisfy the judgment and provide Plaintiff's attorney with true copies of those insurance agreements or policies, including, but not limited to, any and all declaration sheets. **This demand shall include and cover not only primary coverage, but also any and all excess, catastrophe and umbrella policies.**

MANDELBAUM BARRETT PC
Attorneys for Plaintiff,
Susan Calton, Executor of the Estates
of Joseph R. Pych and Barbara M. Pych

/s/ Raj Gadhok

RAJ GADHOK

Dated: March 14, 2022

CERTIFICATION PURSUANT TO R. 1:38-7(B)

I certify that the confidential personal identifiers have been redacted from documents now submitted to the Court and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

MANDELBAUM BARRETT PC
Attorneys for Plaintiff,
Susan Calton, Executor of the Estates
of Joseph R. Pych and Barbara M. Pych

/s/ Raj Gadhok

RAJ GADHOK

Dated: March 14, 2022

CERTIFICATION PURSUANT TO R. 4:5-1

Pursuant to R. 4:5-1, I hereby certify that the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding and that no other action or arbitration proceeding is contemplated. I further certify that I am unaware of any non-party who should be joined in this action. I certify that the foregoing statements made by me are true and I am aware that if any of the foregoing statements made by me are willfully false, that I am subject to punishment.

MANDELBAUM BARRETT PC
Attorneys for Plaintiff,
Susan Calton, Executor of the Estates
of Joseph R. Pych and Barbara M. Pych

/s/ Raj Gadhok

RAJ GADHOK

Dated: March 14, 2022

Civil Case Information Statement

Case Details: PASSAIC | Civil Part Docket# L-000688-22

Case Caption: CALTON SUSAN VS SZR WAYNE
ASSISTED LIVING, LL

Case Initiation Date: 03/14/2022

Attorney Name: RAJDEEP S GADHOK

Firm Name: MANDELBAUM BARRETT PC

Address: 3 BECKER FARM RD STE 105

ROSELAND NJ 07068

Phone: 9737364600

Name of Party: PLAINTIFF : CALTON, SUSAN

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: PERSONAL INJURY

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? YES

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Are sexual abuse claims alleged by: SUSAN CALTON? NO

Are sexual abuse claims alleged by: ESTATES OF JOSEPH R. PYCH and? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

03/14/2022

Dated

/s/ RAJDEEP S GADHOK

Signed



Plaintiff
S USAN CALTON, INDIVIDUALLY AND AS EXECUTOR ON BEHALF OF THE ESTATES OF
JOSEPH R. PYCH AND BARBARA M. PYCH

Defendant
S ZR WAYNE ASSISTED LIVING, LLC, D/B/A SUNRISE OF WAYNE, ET AL

Person to be served: SZR WAYNE ASSISTED
LIVING, LLC D/B/A SUNRISE OF WAYNE
Address:
184 BERDAN AVENUE
WAYNE NJ 07470

Attorney:
MANDELBAUM BARRETT P.C.
3 BECKER FARM ROAD
ROSELAND NJ 07068

Papers Served:
SUMMONS, COMPLAINT & CASE INFORMATION STATEMENT TRACK ASSIGNMENT NOTICE

SUPERIOR COURT OF NEW
JERSEY

LAW DIVISION:
PASSAIC COUNTY

DOCKET NO. PAS-L-000688-22

AFFIDAVIT OF SERVICE
(for use by Private Service)

Cost of Service pursuant to R4:4-30

\$ _____

Service Data:

Served Successfully ☒ Not Served _____ Date: 3/30/22 Time: 1:35pm Attempts: _____

_____ Delivered a copy to him/her personally

Name of Person Served and relationship/title

_____ Left a copy with a competent household
member over 14 years of age residing therein at place of abode.

Michelle Bracalino

☒ Left a copy with a person authorized to accept
service, e.g. managing agent, registered agent, etc.

MANAGING AGENT

Description of Person Accepting Service:

Age: 31 Height: 5'9 Weight: 145 lbs Hair: Brown Sex: F Race: Hispanic

Non-Served:

- () Defendant is unknown at the address furnished by the attorney
() All reasonable inquiries suggest defendant moved to an undetermined address
() No such street in municipality
() No response on: _____ Date _____ Time _____

_____ Date _____ Time _____
_____ Date _____ Time _____

() Other: _____ Comments or Remarks _____

Subscribed and Sworn to me this
30th day of March 2022

I, LUIS LOPEZ, was at
time of service a competent adult not having a direct
interest in the litigation. I declare under penalty
of perjury that the foregoing is true and correct.

Patricia Knapp

Notary Signature

Luis Lopez

Signature of Process Server

03/30/22

Date



DGR LEGAL, INC.
1359 Littleton Road, Morris Plains, NJ 07950-3000
(973) 403-1700 Fax (973) 403-9222

Work Order No. 569070

File No. PAS-L-000688-22

Raj Gadhok, Esq. (Attorney ID 034311999)

MANDELBAUM BARRETT PC

3 Becker Farm Road, Suite 105

Roseland, New Jersey 07068

Telephone: (973) 736-4600

Facsimile: (973) 325-7467

Email: RGadhok@mblawfirm.com

Attorneys for Plaintiff, Susan Calton,

Executor of the Estates of Joseph R. Pych and Barbara M. Pych

<p>SUSAN CALTON, Administrator of the Estate of JOSEPH and BARBARA PYCH,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>SZR WAYNE ASSISTED LIVING, LLC d/b/a SUNRISE OF WAYNE, SUNRISE SENIOR LIVING, LLC, SENIOR LIVING MANAGEMENT, INC., ABC COMPANIES 1-10 said entities being fictitious and unknown, and JOHN DOES 1-10 said names being fictitious and unknown,</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – PASSAIC COUNTY DOCKET NO. PAS-L-688-22</p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;">SUMMONS</p>
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FROM THE STATE OF NEW JERSEY TO THE DEFENDANTS NAMED ABOVE:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf). If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion

(with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.

/s/ Michelle M. Smith

MICHELLE M. SMITH
Clerk of the Superior Court

Dated: March 29, 2022

DEFENDANT TO BE SERVED:

SZR Wayne Assisted Living, LLC d/b/a Sunrise of Wayne
184 Berdan Avenue
Wayne, New Jersey 07470



Plaintiff
SUSAN CALTON, INDIVIDUALLY AND AS EXECUTOR ON BEHALF OF THE ESTATES OF
JOSEPH R. PYCH AND BARBARA M. PYCH

Defendant
SZR WAYNE ASSISTED LIVING, LLC, D/B/A SUNRISE OF WAYNE, ET AL

Person to be served: SUNRISE SENIOR LIVING, LLC

Address:
184 BERDAN AVENUE
WAYNE NJ 07470

Attorney:
MANDELBAUM BARRETT P.C.
3 BECKER FARM ROAD
ROSELAND NJ 07068

Papers Served:
SUMMONS, COMPLAINT & CASE INFORMATION STATEMENT TRACK ASSIGNMENT NOTICE

SUPERIOR COURT OF NEW
JERSEY
LAW DIVISION:
PASSAIC COUNTY

DOCKET NO. PAS-L-000688-22

AFFIDAVIT OF SERVICE
(for use by Private Service)

Cost of Service pursuant to R4:4-30

\$ _____

Service Data:

Served Successfully ☒ Not Served _____ Date: 3/30/22 Time: 1:35pm Attempts: _____

_____ Delivered a copy to him/her personally

Name of Person Served and relationship/title

_____ Left a copy with a competent household
member over 14 years of age residing therein at place of abode.

Michelle Braccino

☒ Left a copy with a person authorized to accept
service, e.g. managing agent, registered agent, etc.

MANAGING AGENT

Description of Person Accepting Service:

Age: 31 Height: 5'9 Weight: 145 Hair: Brn Sex: F Race: Hispanic

Non-Served:

- () Defendant is unknown at the address furnished by the attorney
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() No such street in municipality
() No response on: _____ Date _____ Time _____
_____ Date _____ Time _____
_____ Date _____ Time _____

() Other: _____ Comments or Remarks _____

Subscribed and Sworn to me this
30th day of March 2022

I, LUIS LOPEZ, was at
time of service a competent adult not having a direct
interest in the litigation. I declare under penalty
of perjury that the foregoing is true and correct.

Patricia Knapp

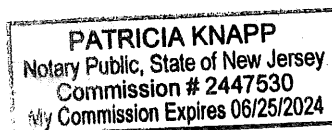
Notary Signature

Luis Lopez

Signature of Process Server

3/30/22

Date



DGR LEGAL, INC.
1359 Littleton Road, Morris Plains, NJ 07950-3000
(973) 403-1700 Fax (973) 403-9222

Work Order No. 569071

File No. PAS-L-000688-22

Raj Gadhok, Esq. (Attorney ID 034311999)

MANDELBAUM BARRETT PC

3 Becker Farm Road, Suite 105

Roseland, New Jersey 07068

Telephone: (973) 736-4600

Facsimile: (973) 325-7467

Email: RGadhok@mblawfirm.com

Attorneys for Plaintiff, Susan Calton,

Executor of the Estates of Joseph R. Pych and Barbara M. Pych

<p>SUSAN CALTON, Administrator of the Estate of JOSEPH and BARBARA PYCH,</p> <p>Plaintiff,</p> <p>v.</p> <p>SZR WAYNE ASSISTED LIVING, LLC d/b/a SUNRISE OF WAYNE, SUNRISE SENIOR LIVING, LLC, SENIOR LIVING MANAGEMENT, INC., ABC COMPANIES 1-10 said entities being fictitious and unknown, and JOHN DOES 1-10 said names being fictitious and unknown</p> <p>Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – PASSAIC COUNTY DOCKET NO. PAS-L-688-22</p> <p>Civil Action</p> <p>SUMMONS</p>
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/s/ Michelle M. Smith

MICHELLE M. SMITH
Clerk of the Superior Court

Dated: March 29, 2022

DEFENDANT TO BE SERVED:

Sunrise Senior Living, LLC
184 Berdan Avenue
Wayne, New Jersey 07470



Plaintiff
SUSAN CALTON, INDIVIDUALLY AND AS EXECUTOR ON BEHALF OF THE ESTATES OF
JOSEPH R. PYCH AND BARBARA M. PYCH

Defendant
SZR WAYNE ASSISTED LIVING, LLC, D/B/A SUNRISE OF WAYNE, ET AL

Person to be served: SUNRISE SENIOR LIVING
MANAGEMENT, INC.
Address:
184 BERDAN AVENUE
WAYNE NJ 07470

Attorney:
MANDELBAUM BARRETT P.C.
3 BECKER FARM ROAD
ROSELAND NJ 07068

Papers Served:
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SUPERIOR COURT OF NEW
JERSEY
LAW DIVISION:
PASSAIC COUNTY

DOCKET NO. PAS-L-000688-22

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Michelle Braccino

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service, e.g. managing agent, registered agent, etc.

MANAGING AGENT

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30th day of March 2022

I, LUIS LOPEZ, was at
time of service a competent adult not having a direct
interest in the litigation. I declare under penalty
of perjury that the foregoing is true and correct.

Patricia Knapp

Notary Signature

Luis Lopez

Signature of Process Server

03/30/22

Date



DGR LEGAL, INC.
1359 Littleton Road, Morris Plains, NJ 07950-3000
(973) 403-1700 Fax (973) 403-9222

Work Order No. 569072

File No. PAS-L-000688-22

Raj Gadhok, Esq. (Attorney ID 034311999)

MANDELBAUM BARRETT PC

3 Becker Farm Road, Suite 105

Roseland, New Jersey 07068

Telephone: (973) 736-4600

Facsimile: (973) 325-7467

Email: RGadhok@mblawfirm.com

Attorneys for Plaintiff, Susan Calton,

Executor of the Estates of Joseph R. Pych and Barbara M. Pych

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/s/ Michelle M. Smith

MICHELLE M. SMITH
Clerk of the Superior Court

Dated: March 29, 2022

DEFENDANT TO BE SERVED:

Sunrise Senior Living Management, Inc
184 Berdan Avenue
Wayne, New Jersey 07470

